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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

G. Siegel
Civ. Serv.

FILE: B-191087

DATE: March 14, 1978

MATTER OF: Ronald F. Houska - Real Estate Expenses

- DIGEST:**
1. Employee transferred to new duty station is entitled to allowable real estate expenses if settlement of purchase at new location occurs within 1 (initial) year after date on which he reports to new station or with an additional 1-year period where an extension is granted. Determination to grant extension for an additional 1-year period is for head of agency in accord with FPMR 101-7, para. 2-6.1e, and this Office would not object to such determination unless found to be arbitrary and capricious.
 2. Loan origination charge is considered a finance charge under Truth in Lending Act Title I, PL 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System and may not be reimbursed as part of the real estate expenses incurred incident to transfer.

This matter is before us as a request for an advance decision submitted by the Controller, Veterans Administration, regarding entitlement to payment of real estate expenses for a home purchased by an employee 15 months after he had reported for duty at the new station.

Mr. Ronald F. Houska, an employee of the Veterans Administration, received a permanent change of duty station from Leavenworth, Kansas, to Dayton, Ohio, with a reporting date of August 1, 1976. At the time of the transfer the employee was single. However, in August 1977 he got married and on October 31, 1977, made settlement on a home. He thereafter submitted a claim for reimbursement for real estate expenses incident to the purchase. The propriety of payment of this claim was questioned on the basis that the claim is after the fact and is more for the convenience of the employee and not in connection with a permanent change of station for the convenience of the Government.

Reimbursement to Federal employees of certain expenses incurred in connection with residence transaction incident to a transfer of duty

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station is governed by section 5724 a(4) of title 5, United States Code (1970), which authorizes payment of:

"Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone.
* * *

At all times relevant to this decision the governing regulations have been the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR) issued by the General Services Administration. Paragraph 2-6.1e of the FTR, cited in the agency letter, provides;

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

With respect to real estate transactions that occur beyond the initial 1-year period following the effective date of transfer, this paragraph requires a determination that the particular transaction reasonably relates to the transfer in granting an extension of the 1-year settlement date. The regulation does not require that a contract of sale or purchase be entered into within the initial 1-year period in order to justify the grant of an extension nor that the request for extension be made within the first or even the second

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year after the effective date of transfer. Matter of George F. Rakous, Jr., B-188809, October 13, 1977, 57 Comp. Gen. ____. Nor does it require any special formality for the employee's written request for the extension. Any written statement by the employee, even the submission of a claim beyond the initial year, is sufficient to constitute a request for an extension. It requires only that the settlement date not be later than 1 year after the date on which the employee reports for duty at the new official station, or, if an extension is granted, within an additional period not to exceed 1 year. Accordingly, the submission of the claim by the employee for reimbursement of real estate expenses should be considered as a request for an extension. Matter of Shelby Brownfield, et al., B-182988, November 26, 1975.

Based on the record submitted, we presume that there has been no determination with respect to Mr. Houska's request for an extension. In fact, the record suggests some uncertainty as to whether it would be appropriate to grant an extension where the circumstances suggest that the residence purchase transaction was largely a matter of convenience to the employee and not in connection with his transfer. In this regard, we note only that we would consider the chronology of events and the change in Mr. Houska's marital status as two of any number of factors that might appropriately be considered in making a determination as to whether an extension should be granted. Under para. 2-6.1e, quoted above, the determination to grant an extension after the expiration of the initial 1-year period is a matter within the discretion of the head of the agency or his designee. This Office would not object to such decision unless it appears to be arbitrary or capricious.

It is noted that among the items of real estate costs incurred by Mr. Houska in purchasing the residence is an "Origination Charge" of \$420. In this regard Federal Travel Regulation (FPMR 101-7) para. 2-6.2d (May 1973) provides in pertinent part that:

"* * * no fee cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System."

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In decision B-186734, September 23, 1976, we stated concerning the matter of origination fee:

"The service charge computed at 1% of the loan, * * * is also known as a loan origination fee, and its purpose is to cover the various administrative costs of processing and handling the loan. We have held in the past that this fee may be described as a 'loan fee' within the meaning of section 106(a)(3) of the Truth in Lending Act. See 54 Comp. Gen. 827 (1975); B-185621, April 27, 1976; B-183972, April 16, 1976; and cases cited. As such, there is no exception contained in section 106(e) of the Act for this fee which must then be considered a 'finance charge' in accordance with section 106(a), and since the Federal Travel Regulations preclude reimbursement for such 'finance charges,' reimbursement is not allowed for the service charge paid * * *."

Accordingly, the voucher submitted by Mr. Houska is returned for such action as may be taken in accord with the above decision.

R. G. K. 11-11-76
Deputy Comptroller General
of the United States